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INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

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Applicant's or agent's file reference 9873200:HALE	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/IB 03/02443	International filing date (<i>day/month/year</i>) 24.06.2003	Priority date (<i>day/month/year</i>) 26.06.2002
International Patent Classification (IPC) or both national classification and IPC A47J31/30		
Applicant CHAN, Wing Kin et Al.		

1.	This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2.	This REPORT consists of a total of 5 sheets, including this cover sheet.
	<input type="checkbox"/> This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT). These annexes consist of a total of sheets.
3.	This report contains indications relating to the following items: <ul style="list-style-type: none"> I <input checked="" type="checkbox"/> Basis of the opinion II <input type="checkbox"/> Priority III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability IV <input type="checkbox"/> Lack of unity of invention V <input checked="" type="checkbox"/> Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement VI <input type="checkbox"/> Certain documents cited VII <input type="checkbox"/> Certain defects in the international application VIII <input type="checkbox"/> Certain observations on the international application

Date of submission of the demand 21.01.2004	Date of completion of this report 24.09.2004
Name and mailing address of the international preliminary examining authority:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Authorized Officer Lehe, J Telephone No. +31 70 340-3108 

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. **PCT/IB 03/02443**

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-17 as originally filed

Claims, Numbers

1-23 as originally filed

Drawings, Sheets

1/7-7/7 filed with the demand

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
☐ the language of publication of the international application (under Rule 48.3(b)).
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
☐ the claims, Nos.:
☐ the drawings, sheets:

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/IB 03/02443

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-23
	No: Claims	
Inventive step (IS)	Yes: Claims	
	No: Claims	1-23
Industrial applicability (IA)	Yes: Claims	1-23
	No: Claims	

2. Citations and explanations

see separate sheet

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/IB 03/02443

Re Item V

1. Reference is made to the following documents:

D1: DE 199 14 651 A (VOLZ ABC ELEKTROGERAETE) 12 October 2000

D2: BE 635 160 A (BLAS ARTIGA) 18 November 1963

D3: US-A-6 026 733 (FARHADIEH ROU ET AL) 22 February 2000

2. The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claims 1 and 17 does not involve an inventive step in the sense of Article 33(3) PCT.

2.1. The document **D1** is regarded as being the closest prior art to the subject-matter of claim 1, and discloses (the references in parentheses applying to this document) a beverage making apparatus including:

- a fluid compartment (1),
- a beverage compartment (8),
- beverage processing means (4,6),
- heating means (12) and
- said fluid compartment and said beverage compartment being communicable via said beverage processing means (3-7),
- said heating means being adapted for heating fluid inside said fluid compartment so that, when in use, steam generated in said fluid compartment will force fluid to move from said fluid compartment to said beverage compartment via said beverage processing means,

The subject-matter of claim 1 therefore differs from this known apparatus in:

- user controllable heating power control means,
- the flavour of beverages made by said apparatus being controllable by varying the rate of steam production in said fluid compartment through varying the heating power output of said heating means via said user controllable heating power control means on said apparatus.

The subject-matter of claim 1 of the present application cannot be considered as involving an inventive step (Article 33(3) PCT), because it is known from D1 (col. 1, l. 14-45) to use external electric cooking plates for heating an espresso apparatus. As it is known to the person skilled in the art, electric cooking plates comprise user controllable heating power control means. Through the power output of such an electric cooking plate the rate of steam production can be varied and therefore the flavour of the beverage is controllable.

2.2. The subject-matter of independent claim 17 cannot be considered as involving an inventive step (Article 33(3) PCT), with D2 being regarded as being the closest prior art and disclosing:

- a main container (1) including a top portion, a bottom portion and a peripheral wall
- a beverage processing module including a receptacle (4) for receiving beverage making substances, partitioning means (2) separating said main container into a fluid compartment and a beverage compartment, a first fluid guiding means (*lower part of (4)*) for guiding fluid to move from said first fluid compartment to said receptacle, a second fluid guiding means (6) for guiding fluid to move from said receptacle (4) to said beverage compartment, said fluid compartment being defined between said partitioning means (2) and said bottom portion of said main container, said beverage compartment being defined between said partitioning means (2) and said top portion (9) of said main container, said fluid compartment and said beverage compartment being generally not communicable except through said receptacle, and said partitioning means being slidably movable (p. 6, l. 9-30) inside said main container and along said peripheral wall.

The subject-matter of claim 1 therefore differs from this known apparatus in:

- electrical heating means for heating said fluid compartment, which are known from D1

3. Dependent claims 2-16 and 18-23 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of an inventive step.

- claims 2-3 base (19) for fluid compartment
- claims 4-5 control means are obvious for an electric cooking plates
- claims 7-10: standard features of an espresso apparatus
- claims 11-16: see D2
- claims 18-20: D2 (fig. 4)
- claims 21-22: D1
- claim 23: D3 (abstract)

Box No. VIII (iv) DECLARATION: INVENTORSHIP (only for the purposes of the designation of the United States of America)
The declaration must conform to the following standardized wording provided for in Section 214; see Notes to Boxes Nos. VIII, VIII (i) to (v) (in general) and the specific Notes to Box No. VIII (iv). If this Box is not used, this sheet should not be included in the request.

**Declaration of inventorship (Rules 4.17(iv) and 51bis.1(a)(iv))
 for the purposes of the designation of the United States of America:**

I hereby declare that I believe I am the original, first and sole (if only one inventor is listed below) or joint (if more than one inventor is listed below) inventor of the subject matter which is claimed and for which a patent is sought.

This declaration is directed to the international application of which it forms a part (if filing declaration with application).

This declaration is directed to international application No. PCT/..... (if furnishing declaration pursuant to Rule 26ter).

I hereby declare that my residence, mailing address, and citizenship are as stated next to my name.

I hereby state that I have reviewed and understand the contents of the above-identified international application, including the claims of said application. I have identified in the request of said application, in compliance with PCT Rule 4.10, any claim to foreign priority, and I have identified below, under the heading "Prior Applications," by application number, country or Member of the World Trade Organization, day, month and year of filing, any application for a patent or inventor's certificate filed in a country other than the United States of America, including any PCT international application designating at least one country other than the United States of America, having a filing date before that of the application on which foreign priority is claimed.

Prior Applications:

I hereby acknowledge the duty to disclose information that is known by me to be material to patentability as defined by 37 C.F.R. § 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the PCT international filing date of the continuation-in-part application.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

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Citizenship: Chinese (HKSAR)

Inventor's Signature:

(if not contained in the request, or if declaration is corrected or added under Rule 26ter after the filing of the international application. The signature must be that of the inventor, not that of the agent)

Date: 26th June, 03

(of signature which is not contained in the request, or of the declaration that is corrected or added under Rule 26ter after the filing of the international application)

Name:

Residence:

Mailing Address:

Citizenship:

Inventor's Signature:

(if not contained in the request, or if declaration is corrected or added under Rule 26ter after the filing of the international application. The signature must be that of the inventor, not that of the agent)

Date:

(of signature which is not contained in the request, or of the declaration that is corrected or added under Rule 26ter after the filing of the international application)

☐ This declaration is continued on the following sheet, "Continuation of Box No. VIII (iv)".